

# **EXHIBIT B**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

MARK BROADLEY,	)	CIVIL ACTION NO.: 04-11420-PBS
Plaintiff	)	
	)	
v.	)	
	)	
MASHPEE NECK MARINA, INC.	)	
Defendant	)	

**AFFIDAVIT OF MARK BROADLEY**

I, Mark Broadley, on oath depose and state as follows:

1. My name is Mark Broadley and I live at 267 Blacksmith Shop Road, East Falmouth, MA 02536. My date of birth is November 1, 1971. I am a vice president of Cytosol Laboratories in Braintree, MA. I am married to DeAnna Broadley, and we have two small children.
2. I own a Larson 213 Escape inboard/outboard with a Volvo Penta engine. In August of 2002 I leased a slip at Mashpee Neck Marina in Mashpee, Massachusetts. A copy of the mooring agreement is attached as Exhibit B to this Opposition.
3. On August 25, 2002 at approximately 6:45 P.M. I was at the Mashpee Neck Marina with my family. We had been boating with friends since about noontime. I was in the process of putting my boat away for the evening and standing on the finger pier that my boat was moored to when the incident occurred. The finger pier is connected to the main dock with hinges and pins fastened to the outboard corners of the finger pier. This configuration left a gap of about 4

inches during calm conditions. These dock sections could move freely and independently due to wave action created by vessel wake or weather, causing the 4 inch gap to enlarge substantially.

4. At that same time, a boat went by. It was white, had a crow's nest, and was sort of a fisherman's style boat. It was going fast, and left a huge wake. As the waves rolled in, they caused the finger pier and the main pier to move up and down in relation to one another substantially, causing the space or gap between the two to open up, ensnaring my left foot. I fell onto the dock that my boat was moored to and my right arm hit the cleat there. My left leg stayed caught, and I fell into the water between my boat and the dock. I finally got up, and when I went to put my weight onto my left foot, I fell back down. I rolled myself over, and could see that my left foot was bent sideways. My ankle was badly fractured and permanently injured from this incident, and required the insertion of hardware in order to set the bone.

**Signed penalties of perjury this 16<sup>th</sup> day of August, 2004**

  
**Mark Broadley**